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STATE OF MINNESOTA
BOARD OF ARCHITECTURE, ENGINEERING,
LAND SURVEYING, LANDSCAPE ARCHITECTURE, GEOSCIENCE
AND INTERIOR DESIGN

In the matter of
Brad Berggren,
PROFESSIONAL ENGINEER
License Number 45177
PROFESSIONAL GEOLOGIST
License Number 45177

STIPULATION AND ORDER

Board File No. 2006-0037

TO: Mr. Brad Berggren
8402 North Ridge Trail
Milton, WI 53563

The Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design ("Board") is authorized pursuant to Minnesota Statutes section 214.10 (2006) and Minnesota Statutes section 326.111(2006) to review complaints against architects, professional engineers, land surveyors, landscape architects, geoscientists, and certified interior designers, and to take disciplinary action whenever appropriate.

The Board received information concerning Brad Berggren ("Respondent"). The Board's Complaint Committee ("Committee") reviewed the information. The parties have agreed that the matter may now be resolved by this Stipulation and Order.

STIPULATION

IT IS HEREBY AGREED by and between Respondent and the Committee as follows:

1. Jurisdiction. The Respondent has held a license to practice Professional Geoscience from the Board since October 3, 2006. The Respondent has held a license to practice Professional Engineering from the Board since December 28, 2006. Respondent is subject to the jurisdiction of the Board with respect to the matters referred to in this Stipulation.

2. Facts. This Stipulation is based upon the following facts:

a. Respondent was first licensed to practice Professional Geoscience in the State of Minnesota on October 3, 2006.

b. Respondent was first licensed to practice Professional Engineering in the State of Minnesota on December 28, 2006.

c. On December 8, 2005, Respondent distributed a report to Mr. Dan Dahlgren regarding the proposed Dollar General Building project in the city of Worthington, located in Nobles County, Minnesota. Respondent used the titles of P.E. and P.G. following his signature on this report. A true and correct copy of the December 8, 2005 report is attached as

Exhibit 1. Respondent was not licensed as a Professional Engineer or Professional Geologist at the time he distributed this report to Mr. Dan Dahlgren.

d. Respondent states in his response letter dated May 4, 2006, that "the

preliminary report was provided to the client and architect with a notation at the bottom of my signature on the report stating: Minnesota Professional License Applications in progress." A true and correct copy of the May 4, 2006 letter is attached as Exhibit 2.

- e. The Board office received Respondent's application for a professional geologist license on May 5, 2006.
- f. The Board office received Respondent's application for a professional engineering license on May 5, 2006.

3. Violations. Respondent admits that the facts specified above constitute violations of Minnesota Statutes section 326.02, subdivisions 1, 3 and 3(a) (2006) and Minnesota Statutes section 326.111, subdivision 4(a)(1) (2006) and are sufficient grounds for the action specified below.

4. Enforcement Action. Respondent and the Committee agree that the Board should issue an Order in accordance with the following terms:

- a. Reprimand. Respondent is reprimanded for the foregoing conduct.
- b. Civil Penalty. Respondent shall pay a civil penalty of Two Thousand Five Hundred Dollars (\$2,500.00) to the Board. Respondent shall submit a cashier's check or money order for Two Thousand Five Hundred Dollars (\$2,500.00) to the Board within sixty (60) days of the date of the Board Order approving this Stipulation and Order.

5. Additional Discipline for Violations of Order. If Respondent violates this Stipulation, Minnesota Statutes sections 326.02 through 326.15 (2006), or

Minnesota Rules Chapter 1800 (2005) or Minnesota Rules Chapter 1805 (2005), the Board may impose additional discipline pursuant to the following procedure:

a. The Committee shall schedule a hearing before the Board. At least thirty days prior to the hearing, the Committee shall mail Respondent a notice of the violation alleged by the Committee and of the time and place of the hearing. Within fourteen days after the notice is mailed, Respondent shall submit a written response to the allegations. If Respondent does not submit a timely response to the Board, the allegations may be deemed admitted.

b. At the hearing before the Board, the Complaint Committee and Respondent may submit affidavits made on personal knowledge and argument based on the record in support of their positions. The evidentiary record before the Board shall be limited to such affidavits and this Stipulation and Order. Respondent waives a hearing before an administrative law judge and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

c. At the hearing, the Board will determine whether to impose additional disciplinary action, including additional conditions or limitations on Respondent's practice or suspension or revocation of Respondent's license.

6. Waiver of Respondent's Rights. For the purpose of this Stipulation, Respondent waives all procedures and proceedings before the Board to which Respondent may be entitled under the Minnesota and United States constitutions, statutes, or the rules of the Board, including the right to dispute the allegations against

Respondent, to dispute the appropriateness of discipline in a contested case proceeding pursuant to Minnesota Statutes Chapter 14 (2006), and to dispute the civil penalty imposed by this Agreement. Respondent agrees that upon the application of the Committee without notice to or an appearance by Respondent, the Board may issue an Order containing the enforcement action specified in paragraph 4 herein. Respondent waives the right to any judicial review of the Order by appeal, writ of certiorari, or otherwise.

7. Collection. In accordance with Minnesota Statutes section 16D.17 (2006), in the event this order becomes final and Respondent does not comply with the condition in paragraph 4(b) above, Respondent agrees that the Board may file and enforce the unpaid portion of the civil penalty as a judgment without further notice or additional proceedings.

8. Board Rejection of Stipulation and Order. In the event the Board in its discretion does not approve this Stipulation or a lesser remedy than specified herein, this Stipulation shall be null and void and shall not be used for any purpose by either party hereto. If this Stipulation is not approved and a contested case proceeding is initiated pursuant to Minnesota Statutes Chapter 14 (2006), Respondent agrees not to object to the Board's initiation of the proceedings and hearing the case on the basis that the Board has become disqualified due to its review and consideration of this Stipulation and the record.

9. Unrelated Violations. This settlement shall not in any way or manner limit or affect the authority of the Board to proceed against Respondent by initiating a

contested case hearing or by other appropriate means on the basis of any act, conduct, or admission of Respondent justifying disciplinary action which occurred before or after the date of this Stipulation and which is not directly related to the specific facts and circumstances set forth herein.

10. Record. The Stipulation, related investigative reports and other documents shall constitute the entire record of the proceedings herein upon which the Order is based. The investigative reports, other documents, or summaries thereof may be filed with the Board with this Stipulation.

11. Data Classification. Under the Minnesota Government Data Practices Act, this Stipulation is classified as public data upon its issuance by the Board. Minnesota Statutes Chapter 13.41, subdivision 5 (2006). All documents in the record shall maintain the data classification to which they are entitled under the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13 (2006). They shall not, to the extent they are not already public documents, become public merely because they are referenced herein. A summary of this Order will appear in the Board's newsletter. A summary will also be sent to the national discipline data bank pertaining to the practice of Professional Geoscience and Professional Engineering.

12. Entire Agreement. Respondent has read, understood, and agreed to this Stipulation and is freely and voluntarily signing it. The Stipulation contains the entire agreement between the parties hereto relating to the allegations referenced herein. Respondent is not relying on any other agreement or representations of any kind, verbal or otherwise.

13. Counsel. Respondent is aware that he may choose to be represented by legal counsel in this matter. Respondent knowingly waived legal representation.

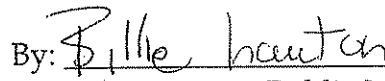
14. Service. If approved by the Board, a copy of this Stipulation and Order shall be served personally or by first class mail on Respondent. The Order shall be effective and deemed issued when it is signed by the Chair of the Board.

RESPONDENT


Brad Berggren

Dated: April 12, 2007

COMPLAINT COMMITTEE

By: 
Billie Lawton, Public Member,
Committee Chair

Dated: 5/4, 2007

ORDER

Upon consideration of the foregoing Stipulation and based upon all the files, records and proceedings herein, all terms of the Stipulation are approved and hereby issued as an Order of this Board on this the 4TH day of May, 2007.

MINNESOTA BOARD OF
ARCHITECTURE, ENGINEERING,
LAND SURVEYING, LANDSCAPE
ARCHITECTURE, GEOSCIENCE AND
INTERIOR DESIGN

By: Harvey H. Harvala
Harvey H. Harvala, PE
Board Chair



ENGINEERING, INC.

Engineers • Land Surveyors • Environmental Scientists
112 S. MAIN STREET JEFFERSON, WISCONSIN 53549 (920) 674-3411

RECEIVED JAN 18 2006

December 8, 2005

Mr. Dan Dahlgren
Lantern Development, LLC
6950 Industrial Loop
Greendale, Wisconsin 53129-2444

Re: Proposed Dollar General Building
City of Worthington
Nobles County, Minnesota
Job No. 05556

Dear Mr. Dahlgren:

As requested, a geotechnical investigation has been performed for the proposed Dollar General Building to be constructed within the City of Worthington in Nobles County, Minnesota. It is understood that the single-story Dollar General Building is to be constructed within the east central portion of the site - which is located along the south side of Ryan's Road - with paved parking facilities to be provided to the north of the structure. Topographically, the project site - which is currently undeveloped - generally slopes from east to west toward a drainage ditch that trends north-south along the western side of the parcel. Existing ground surface grades (at the proposed structure) ranged approximately between elevations 1574 and 1575 feet above mean sea level. Current design plans indicate that the Dollar General structure will measure about 130 by 70 feet in Plan dimensions with a finished floor at Elev. 1575 feet.

The field investigation for this project was completed on September 26, 2005 and involved the completion and analysis of eight (8) soil borings drilled to depths of 10 to 25 feet below existing grade. Five (5) borings were conducted within limits of the proposed structure

or

If thick or extensive unstable areas are found, consideration should be given to installation of a geotextile reinforcing fabric or geogrid to provide additional stability. Fabric or geogrid should be installed in accordance with the manufacturer's recommendations.

New pavement base course should consist of crushed stone or crushed gravel (or other approved materials) conforming to current City of Worthington criteria, or as otherwise specified by the design engineers. New base course should be compacted to at least 95% Modified Proctor density. Bituminous pavement materials should also conform to (and be placed and compacted in accordance with) current City of Worthington criteria and specifications.

General

It is recommended that full-time inspection be provided by RSV Engineering, Inc. or other qualified geotechnical personnel so that soils at the foundation bearing level(s), which may vary over parts of the structure pad, can be inspected and tested during construction in order to insure conformance with the design recommendations and Specifications. In addition, base course materials should be tested; and pad preparation, placement and compaction of new fill, proofrolling, floor slab and paving operations closely monitored and tested during construction to insure compliance with the recommended procedures.

If there are any questions in regard to this Report or if we can be of further service on this project, please do not hesitate to contact us.

Respectfully submitted,
RSV ENGINEERING, INC.

Brad J. Berggren

Brad J. Berggren, P.E., P.G. (Wisconsin E-25170, PG-1150-013) (Minnesota Professional License Applications in progress)

RSV
ENGINEERING, INC.

Engineers • Land Surveyors • Environmental Scientists

May 4, 2006

RECEIVED
MAY - 5 2006

Lynett DuFresne, Investigator
Minnesota Board of Architecture, Engineering,
Land Surveying, Landscape Architecture,
Geoscience, and Interior Design
85 East 7th Street, Suite 160
St. Paul, MN 55101

Subject: File Number 2006-0037

Dear Ms. DuFresne:

This letter is in response to correspondence your Board received from a complainant alleging violations relating to professional licenses in the State of Minnesota. I assure you that there was no intent to misrepresent or falsely convey the impression that I was currently licensed in the State of Minnesota as a Professional Engineer or Professional Geologist.

Work carried out for our client was performed under the supervision of an individual that is a Licensed Professional Engineer in the State of Minnesota. There were several unusual circumstances that occurred relative to that individual, including a medical emergency with the licensee's son at the time the report was being finalized and due to the client and client's architect. Due to this medical emergency, the Licensed P.E. was unavailable and there was uncertainty when he would be available.

Our client and their architectural firm were informed of the situation and of the fact that I was not a licensed P.E. or P.G. in the State of Minnesota. Due to the uncertainty with the Licensed P.E., I started preparation of application materials to become licensed in the State of Minnesota.

While the client was sympathetic to the situation, there were pending deadlines that required the input they sought from our report. The preliminary report was provided to the client and architect with a notation at the bottom of my signature on the report stating "Minnesota Professional License Application in progress". This was provided to show there was no intent to deceive the client or others the client may have chosen to share the report with as part of their ongoing project. Once the Minnesota Licensed P.E. returned to work, he was able to sign and stamp the final report.

EXHIBIT 2

Minnesota Board of Architecture, Engineering, Land Surveying,
Landscape Architecture, Geoscience, and Interior Design

Response to File Number 2006-0037

May 4, 2006

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Due to commitments to other projects and work related travel, the submittal of my applications to the Minnesota Board was delayed. Attached you will find the completed application materials.

I appreciate the complainant's concern and mirror his respect for the licensing system and procedures for professional designations and certifications in the State of Minnesota and all other states. I myself am licensed in the States of Wisconsin, Oregon, and Washington. I respect your need to investigate this matter and request that you proceed to the extent necessary with the expectation that you will be reassured you that my intentions were never to misrepresent my licensure status in the State of Minnesota or to convey the impression that I was currently licensed as a professional engineer or geoscientist in Minnesota. I am optimistic that you will reach a determination that is favorable to my position on these allegations and would be glad to provide you with any additional information or documentation you feel appropriate to resolve this matter to your satisfaction.

Respectfully submitted,

RSV Engineering, Inc.



Brad J. Berggren
Vice President / Principal Consultant

Attachments: Minnesota Licensure Application Documents